

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

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U.S. DISTRICT COURT
N.D. OF ALABAMA

CURTIS L. PEARSON,

Plaintiff,

vs.

JUDGE JOINER

and ANNETTE PEARSON,

Defendants.

ENTERED

MAR 30 2001

CV 01-TMP-0242-W

MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on March 9, 2001, recommending that this action filed pursuant to 42 U.S.C. § 1983 be dismissed under 28 U.S.C. § 1915A(b). The plaintiff filed objections to the report and recommendation on March 21, 2001.

Plaintiff objects to the magistrate judge's recommendation that this case be dismissed prior to requiring the defendants to answer. Plaintiff has named a state court judge whose judicial actions are not subject to review by this court. Plaintiff names his ex-wife, Annette Pearson, as the only other defendant. An action under § 1983 does not lie against a private person in his individual capacity. It is only where a person acts to deprive another of his federal rights under color of state law that §1983 provides authority for a federal claim. *Parker v. Graves*, 479 F.2d 335 (5th Cir. 1973). Annette Pearson is a private individual and is properly dismissed from this action.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections thereto, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and the recommendation is

ACCEPTED. Accordingly, the complaint is due to be dismissed pursuant to 28 U.S.C. § 1915A(b).

A Final Judgment will be entered.

DATED this 29th day of March, 2001.

A handwritten signature in black ink, appearing to read "U. W. Clemon", written over a horizontal line.

U. W. CLEMON
UNITED STATES DISTRICT JUDGE